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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/568,487	09/26/2006	Toshimasa Miyabe	90606.145/ym	2333

54071 7590 12/02/2009  
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EXAMINER
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WILLIAMS, MAURICE L

ART UNIT	PAPER NUMBER
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3611

NOTIFICATION DATE	DELIVERY MODE
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12/02/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

JKEATING@KBIPLAW.COM  
uspto@kbiplaw.com  
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<b>Office Action Summary</b>	<b>Application No.</b> 10/568,487	<b>Applicant(s)</b> MIYABE, TOSHIMASA	
	<b>Examiner</b> MAURICE WILLIAMS	<b>Art Unit</b> 3611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 11 June 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 19-34, 36 and 37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 19-34, 36 and 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                    | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)         | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 19-33 are rejected under 35 U.S.C. 102(b) as being anticipated by Ito (US 6,290,017). Ito discloses:

A mainframe (comprising: **3**, **51F**, **57**) which includes a head pipe and extends obliquely downward;

a pair of right and left subframes (**51R**, on left and right side), extending obliquely downward to the rear.

The left and right subframes are in a middle portion of the motorcycle (Fig. 2).

Ito also discloses: a motor (**9**) supported by and suspended by the main frame and subframes such that the motor is not supported from below (Fig. 3);

a connection portion of the main frame and subframes is located ahead of a portion of the main frame (**57**) supporting the motor (Fig. 3), wherein the main frame supports the motor at its rear end (rear portion of **57** supports motor).

The cross sectional area of the main frame changes such that the front end is larger than the rear (Fig. 3).

The subframes include bent portions (**51R**) bent convexly downward and support the motor, wherein the bent portions also support rear arms (**13**).

Art Unit: 3611

Ito also discloses an engine with a crankcase (**71**) connected to the subframes and a cylinder (**77**) which is connected to the mainframe, wherein the cylinder extends obliquely upward toward the front of the vehicle; right and left brackets (end portions of **51R**); and a pivot shaft (**66**) that penetrates through the right and left brackets, wherein the brackets are interposed between the motor and rear arms (Fig. 3: portion of motor connected to bracket is displayed with hidden lines and the portion of the rear arm connected to the bracket contains solid lines).

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ito in view of Horii et al. (US 6,253,868). Ito discloses as discussed above, but does not directly disclose left and right rear arms. Horii discloses left and right rear arms (**14**; col. 3, ln. 3). Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Ito as taught by Horii in order to ensure that the rear wheel has adequate support. Such a connection is well-known in the art.

5. Claim 37 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ito in view of Imani (US 4,445,585). Ito discloses as discussed above, in addition to an air

Art Unit: 3611

cleaner (23) arranged in a front to rear direction of the vehicle, But does not directly disclose a battery. Imani discloses a motorcycle with a battery (53). Therefore, it would have been obvious to a person having ordinary skill in the art at the time of the invention to modify Ito as taught by Imani in order to provide a source of power for the vehicle.

### ***Response to Arguments***

6. Applicant's arguments filed 8/24/2009 have been fully considered but they are not persuasive. Applicant's arguments have been made with respect to the claims, as amended, and have been addressed above.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MAURICE WILLIAMS whose telephone number is

Art Unit: 3611

(571)272-4263. The examiner can normally be reached on Monday - Friday, 8 a.m. - 5 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (571) 272-6651. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Maurice Williams/  
Examiner, Art Unit 3611  
Maurice Williams  
Examiner  
Art Unit 3611

MLW  
November 19, 2009

/LESLEY D MORRIS/  
Supervisory Patent Examiner, Art Unit 3611